

### **REMARKS**

Claims 21-40 and 59 are pending herein. By this Amendment, non-elected Claims 1-20 and 41-58 are canceled without prejudice or disclaimer; Claims 21-22, 26-27, 29, and 32 are amended; and new Claim 59 is added. Support for the claim amendments and new claim is found in the specification at, *inter alia*, paragraphs [0012], [0014], [0017], [0036] and in the Figures. No new matter is added by this Amendment.

#### **I. INFORMATION DISCLOSURE STATEMENTS**

The Examiner is respectfully requested to initial and return the PTO Form-1449 from the e-IDS and the SIDS, both filed on January 21, 2004. In addition, a Second Supplemental Information Disclosure Statement is being filed concurrently herewith. An electronic IDS (EFS ID 58078) was also filed on March 30, 2004, but the required fee was inadvertently not paid. Accordingly, the Second Supplemental IDS filed herewith also contains the U.S. references cited in the electronic IDS.

#### **II. RESTRICTION REQUIREMENT**

Applicants note that the Restriction Requirement is improper for the reasons set forth in the Election in Response to Restriction Requirement filed on November 26, 2003. Nevertheless to advance prosecution, non-elected and withdrawn Claims 1-20 and 41-58 are canceled without prejudice or disclaimer.

#### **III. FORMAL MATTERS**

The Abstract was objected to as being too long. A new Abstract is submitted having less than 150 words. Reconsideration and withdrawal of the objection are respectfully requested.

The Examiner objected to the Declaration. This objection is respectfully traversed. The Declaration filed with the Notice to File Missing Parts on January 17, 2002 states the full name of William R. Drummond and is signed and dated. A copy of the Declaration is attached hereto. Reconsideration and withdrawal of the objection are respectfully requested.

Claims 21-40 were under 35 U.S.C. 112, second paragraph, as being indefinite. This rejection is respectfully traversed.

The use of the word "it" and "its" in Claims 21 and 26 is grammatically proper and their meaning would have been easily understood by one of ordinary skill in the art. Nevertheless to advance prosecution, Claims 21 and 26 are amended to clarify the claimed method without using "it" or "its". The scope of the pending claims would be reasonably ascertainable to one of ordinary skill in the art when read in light of the specification and drawings. The requirements of 35 U.S.C. 112, second paragraph, are satisfied. Reconsideration and withdrawal of the rejection are respectfully requested.

### III. REJECTIONS UNDER 35 U.S.C. 103(a)

Claims 21-31, 33-38, and 40 were rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,205,106 (Zimmerman et al.) in view of U.S. Patent No. 5,538,742 (McHale et al.). This rejection is respectfully traversed.

Zimmerman et al. discloses a rolled food item. As acknowledged by the Examiner, Zimmerman et al. does not teach or suggest segmenting or perforating food strips across the entire width of each food strip.

McHale et al. does not overcome the deficiencies of Zimmerman et al. McHale et al. discloses a multi-phase sheeted chewing gum product. The product comprises a flat sheet having a first mass and a second mass of a confectionary product having a different

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color than the first mass (Abstract). McHale et al. discloses scoring a sheet of gum approximately 6 feet long (col. 7, lines 51-67). Roller 123 is adjusted so that the sheet of gum is laterally scored at 6 feet and not 3 inches. Breaking brush 134 exerts sufficient downward force on the sheet of gum as the sheet is on conveyor belt 131. When this happens, the sheet is pulled at the same speed as the conveyor and is broken at the lateral score line to separate the sheet into the desire length for the rolled up tape (col. 8, lines 50-54). Thus, the rolled up tape does not have any segmentation or perforation.

The entire objective of McHale et al. is to provide a unitary, non-segmented, long rolled up tape of chewing gum such as shown in FIG. 1 (col. 7, lines 51-53). Neither Zimmerman et al. or McHale et al. teaches or suggests segmenting or perforating food strips across the entire width of each food strip to form a multiplicity of multi-segmented food strips, each multi-segmented food strip having a plurality of separable food segments. Accordingly, even if the references were properly combinable, Applicants' claimed invention would not be obtained or rendered obvious. It would not have been obvious for one of ordinary skill in the art to practice the claimed methods in view of the combined teachings of Zimmerman et al. and McHale et al. Reconsideration and withdrawal of the rejection are respectfully requested.

Claim 32 was rejected under 35 U.S.C. 103(a) as obvious over Zimmerman et al. in view of McHale et al. and further in view of WO 97/33822. This rejection is respectfully traversed.

WO 97/33822 does not overcome the deficiencies of Zimmerman et al. and McHale et al. WO '822 discloses a winding assembly for manufacturing individual pieces of rolled product. WO '822 does not teach or suggest segmenting or perforating food strips across the entire width of each food strip to form a multiplicity of multi-segmented food strips, each multi-segmented food strip having a plurality of separable

food segments. Even if the references were properly combinable, Applicants' claimed invention would not be obtained or rendered obvious. Thus, it would not have been obvious for one of ordinary skill in the art to practice the claimed methods in view of the combined teachings of Zimmerman et al., McHale et al., and WO '822. Reconsideration and withdrawal of the rejection are respectfully requested.

Claim 39 was rejected under 35 U.S.C. 103(a) as being unpatentable over Zimmerman et al. in view of McHale et al. and further in view of U.S. Patent No. 6,217,309 (Jens et al.). This rejection is respectfully traversed.

Jens et al. does not overcome the deficiencies of Zimmerman et al. and McHale et al. Jens et al. discloses a sliced food product having a design or figure cut therein. Like Zimmerman et al. and McHale et al., Jens et al. does not teach or suggest segmenting or perforating food strips across the entire width of each food strip to form a multiplicity of multi-segmented food strips, each multi-segmented food strip having a plurality of separable food segments. Further, Jens et al. does not teach or suggest circumferentially spaced radially projecting knife edges that are disposed for cutting entirely across the width of the strips of food. Each cutting die in Jens et al. defines a cutting pattern for a sliced food product to form a "pop out" design, which "may be easily separated from the surrounding peripheral portion of the slice" (col. 2, lines 38-41 and 60-65). Even if the references were properly combinable, Applicants' claimed invention would not be obtained or rendered obvious. Thus, it would not have been obvious for one of ordinary skill in the art to practice the claimed methods in view of the combined teachings of Zimmerman et al., McHale et al., and Jens et al. Reconsideration and withdrawal of the rejection are respectfully requested.


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IV. CONCLUSION

In light of the foregoing remarks, this application is in condition for allowance, and early passage of this case to issue is respectfully requested. If there are any questions regarding this Amendment or the application in general, a telephone call to the undersigned would be appreciated since this should expedite the prosecution of the application.

It is respectfully requested that, if necessary to effect a timely response, this paper be considered as a Petition for an Extension of Time sufficient to effect a timely response and shortages in other fees, be charged, or any overpayment in fees be credited, to Deposit Account No. 501032 (Docket #KFHI-100).

Respectfully submitted,

  
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Attachment:  
Copy of originally-filed Declaration

March 31, 2004

<p align="center"><u>CERTIFICATE OF MAILING</u></p> <p>I hereby certify that this correspondence dated <u>3/31/04</u> is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Mail Stop Non-Fee Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on <u>3/31/04</u>.</p> <p> HOLLANDER LAW FIRM, P.L.C. Suite 305 10300 Eaton Place Fairfax, Virginia 22030</p> <p>Date: <u>3/31/04</u></p>
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